



August 17, 2015

AUG21 '15 PM 1:42 BOARD

Mr. Gerard Poliquin,  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314-3428

RE: Comments on Proposed Rulemaking for Member Business Loans, Part 723.

Dear Mr. Poliquin:

I am writing to the National Credit Union Administration today to urge you to withdraw the proposal to "modernize" the NCUA's member business lending regulation.

RiverWood Bank is a \$325 million multi branch community bank in Northern Minnesota that competes directly with my Credit Unions in various markets.

In the name of regulatory relief, the NCUA is expanding the ability of credit unions to make commercial loans in ways that were never approved by Congress. Despite attempts to pass legislation increasing credit unions' commercial lending authority, Congress has repeatedly rejected those attempts because additional commercial lending authority is inconsistent with the credit unions' tax exempt mission. The NCUA should not grant powers that Congress has regularly rejected.

The NCUA admits that it not prepared to regulate the credit unions if they make a significantly higher number of commercial loans. The NCUA will spend millions of dollars training examiners to regulate credit unions making commercial loans. Since the NCUA is not prepared for this type of expansion of commercial lending, the NCUA should abandon this plan and keep the credit unions focused on their real mission, serving people of modest means.

The Treasury Department recently concluded that the NCUA has done a poor job enforcing Bank Secrecy Act (BSA) regulations. The NCUA has admitted that it is not prepared to regulate the credit unions if they make a significantly higher number of commercial loans. The NCUA plans to spend millions of dollars training examiners to conduct the more complex commercial loan reviews. Perhaps the NCUA should abandon this expansion and spend those millions of dollars training their examiners to enforce the BSA regulations. The NCUA should fix its existing regulatory oversight issue before adding a second one.

Credit unions receive extremely generous tax advantages, and in exchange for those advantages, credit unions have some limitations. For example, Congress set a cap for credit union commercial lending at



12.25% of total assets. Through various regulatory actions, the NCUA has created multiple exceptions to that rule, rendering the cap meaningless. In this proposed regulation the NCUA has decreed that non-member business loans and non-member commercial participations are exempt from the cap. Congress did not determine that these loans should not count against that cap. That part of the proposed rule is inappropriate. Making that kind of policy determination is a legislative function for Congress, not a regulatory function.

This proposal is contrary to congressional intent to limit credit union business lending activity. In 1998, Congress instituted the credit union commercial lending cap, making it clear that credit unions should be focused on consumer lending, not commercial lending. The cap was put in place "to ensure that credit unions continue to fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, through an emphasis on consumer rather than business loans." By proposing this rule, the NCUA Board has disregarded Congress's clear intent.

Over time, some credit unions have remained true to the original credit union model. They continue to have a tight common bond, and they continue to focus on serving the credit needs of individuals, and especially people of modest means. Other credit unions have become massive institutions serving wealthy people and corporations. Instead of limiting these non-traditional credit unions, the NCUA rewards them by giving them the additional authorities they want and by requiring no accountability with respect to their "common bond" and their true tax-exempt mission. This proposal proves why the NCUA was rightfully called a "cheerleader" for the credit union industry.

Every credit union continues to enjoy their tax exemptions, even though many of them are no longer true to the original credit union mission. There are many examples, but the California credit union that recently committed to paying \$120 million for the naming rights on a professional basketball arena is a great example of how the credit unions abuse their tax advantages. If the NCUA were a true regulator, rather than a "cheerleader" for the credit union industry, it would reign in these types of excesses.

Thank you for considering my comment letter. Please feel free to contact me if you would like any additional input.

Paul Means  


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